

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON GENERAL GOVERNMENT AND TRANSPORTATION

Call to Order: By **CHAIRMAN JOHN BRUEGGEMAN**, on February 14, 2003
at 9 A.M., in Room 317-B Capitol.

ROLL CALL

Members Present:

Rep. John Brueggeman, Chairman (R)
Sen. Rick Laible, Vice Chairman (R)
Sen. Gregory D. Barkus (R)
Sen. Mike Cooney (D)
Rep. Monica Lindeen (D)
Rep. John Sinrud (R)

Members Excused: None.

Members Absent: None.

Staff Present: Matt Bugni, OBPP
Amy Sassano, OBPP
Misty Shea, Committee Secretary
Lynn Zanto, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. Tape stamps indicate information that is found below.

Committee Business Summary:

Hearing & Date Posted: None
Executive Action: Judiciary

{Tape: 1; Side: A; Approx. Time Counter: 0 - 13}

SEN. COONEY and **CHAIRMAN BRUEGGEMAN** discussed the committee's intent in regard to the district court assumption portion of the Judiciary budget. **Lynn Zanto, LFD**, provided an overview of where the subcommittee is at with this issue, as there has been some confusion with the numbers. A two-page handout was distributed showing the breakdown of expenditures in which Ms. Zanto explained. **Matt Bugni, OBPP**, commented on their budget expenses pertaining to district court. He clarified where on the first sheet of the handout under purchased/contract services the Department of Revenue is looking into the numbers reported on purchased services. He added that the total district court expenses amount would not change, it would just be shifted.

Ms. Zanto spoke about the presented options for the judiciary to proceed with their work. They are: Chief Justice Gray's "new proposal" (reference committee minutes of January 28, 2003), creating a statewide public defender system, moving the public defender and juvenile probation costs out of the judiciary, and finally keeping everything as is.

EXHIBIT (jgh33a01)

{Tape: 1; Side: A; Approx. Time Counter: 13 - 30}

(Please note when Justice Gray is speaking, she is barely audible.)

Chief Justice Karla Gray made comments about the vacancy savings shown on the handout and asked for support of her offered proposal as it is seen to be the best option for the judicial branch. She stated that she would not be opposed to moving the Public Defender Commission from the Judiciary but the money to do so is just not there. She discussed the possibility of juvenile probation officers from youth court being moved to the Department of Corrections.

SEN. COONEY asked if a pending ACLU lawsuit has anything to do with the possible move of the Public Defender Commission. **Justice Gray** said that she really has no idea but does not think it was a genesis. She stated she believes the ACLU has testified strenuously in support of the Public Defender Commission.

Lisa Smith, Supreme Court Administrative Services Director, gave her perspective of what the DOR did with the numbers shown on Exhibit 1. She explained the projections, inflation, district court reimbursements, and exposure to the counties. She then went

over how the judiciary's new approach would differ and be more manageable as SB 134 told them how to allocate their budget and they have to manage that. She said that she could commit to managing the bottom line but not to confirming individual numbers at the current expenditure level.

Lynn Zanto, LFD, and Matt Bugni, OBPP, made comments summarizing a Senate Finance Subcommittee on District Court Funding meeting from the prior evening that they and Ms. Smith had referenced.

{Tape: 1; Side: B; Approx. Time Counter: 1- 16}

SEN. LAIBLE and **Lisa Smith** discussed the amount of money that the counties reported to DOR that was being paid in personal services (Exhibit 1 Sheet A). Through HB 124 of 2001 and the entitlement share those figures were supposed to balance out.

Ms. Smith provided clarification of the biennial amounts found on Page 2 of the handout for **SEN. LAIBLE**. She addressed the 8.50 FTE appropriated by the 2001 session to help administer the district court assumption legislation, and related issues under county control (reference Page A-22 last two paragraphs of the Budget Analysis book.) **SEN. LAIBLE** stated "so we know how much money was transferred over, we just don't know what the true liability was of the scope of work being transferred over." **Ms. Smith** said that was exactly correct and one of the reasons for her strong advocacy for two years of cost recording on a consistent basis so the judiciary can come back before the committee and tell them exactly what the costs are and where they are at. **SEN. COONEY** commented about the past circumstances being out of control now, and **Ms. Smith** replied that her point is the judiciary is responsible now so there will not be a recurrence. **Matt Bugni, OBPP,** pointed out that the 8.50 FTE and associated costs they are discussing are not included on Exhibit 1. He clarified that the expenses are already in the base budget. **Ms. Smith** explained further that district court program has two pieces, assumption and operations.

CHAIRMAN BRUEGGEMAN commented that he was trying to decide where to go from here with judiciary as there are so many issues hanging out there. He simplified that he sees the two contentions between the executive budget and the judiciary's as being the 4% vacancy savings and deferring some of the costs to the counties. The committee briefly discussed SB 134 that the aforementioned Senate Finance Subcommittee is working on and how that will affect any action they take. **Ms. Smith** encouraged the members to consider the Chief Justice's proposal as it is very straight

forward, it starts with the 2000 base and includes the Governor's executive budget as funded (Refer to Exhibit 2.) She stated from the judicial branch perspective their budget proposal is less than a legislative subcommittee working on it had said they expected to see. **SEN. COONEY** remarked that the judiciary proposal does not include the transfer of the public defender. **Ms. Smith** said, "That is correct, but it could." She explained further. **SEN. COONEY, CHAIRMAN BRUEGGEMAN, Ms. Smith, and SEN. LAIBLE** went over how to pursue the proposal with the 65% district court reimbursements spread out over the year. **REP. SINRUD** and **Ms. Smith** discussed the general operating and variable costs found on Exhibit 2 and how they were established.

EXHIBIT(jgh33a02)

{Tape: 1; Side: B; Approx. Time Counter: 16 - 25}

Ms. Smith said that the judiciary is very willing to work with MACo (Montana Association of Counties) on the district court reimbursement costs. **REP. SINRUD** clarified for **SEN. LAIBLE** as he expressed concern, that \$7.5 million for district court reimbursement is enough as MACo does not think the amount needed will be that high. **SEN. LAIBLE** asked **Ms. Smith** to tell him what the long and short of her proposal is over the biennium. She did so and addressed some of the previous topics of discussion. **SEN. LAIBLE** speculated if a motion is made to approve their budget with all the caveats, can they readdress it based on the final declaration of the Senate Finance Subcommittee on District Court Funding working on SB 134. **Lynn Zanto, LFD**, stated that the committee can do that. **SEN. COONEY** and **CHAIRMAN BRUEGGEMAN** made comments based on their understanding. **REP. SINUD** referred to the LFD sheet (Exhibit 3); he and **Ms. Zanto** discussed the plan for funding the judicial branch's information technology needs as dependant on a bill to increase the surcharges and related circumstances. **Ms. Smith** added commentary as well.

EXHIBIT(jgh33a03)

{Tape: 1; Side: B; Approx. Time Counter: 25 - 30}

SEN. BARKUS stated that he would like to get to a starting point from here and move forward discussing the issues as they come up with the individual motions. The committee in agreement with this statement, pursued options to do so with **Ms. Smith** explaining any further questions.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 24}

Executive Action on Judiciary

CHAIRMAN BRUEGGEMAN stated that he would accept a motion to approve the 2002 level base funding for all funds except general fund and statewide present law adjustments as requested for all funds. **SEN. BARKUS** asked for that number. **Ms. Zanto** explained what the motion would do, leaving them at the 2000 base 26,593,056 number found on Exhibit 3. She talked about the nongeneral fund portions and unspecified reductions relating to the programs. The committee and Ms. Zanto discussed where they are at with the budget and decided to make motions program by program due to the complications. **Ms. Zanto** referred the members to Page A-29 of the Budget Analysis book to start. **CHAIRMAN BRUEGGEMAN** commented about what they had done with all the other agencies. He said they would leave district court operations for last. **Ms. Smith** spoke being concerned about shifting around the base into different programs as it would be complicated to tract. The members agreed that it already was. **Matt Bugni, OBPP**, commented in agreement with Ms. Smith and explained that a global motion would be acceptable. **SEN. LAIBLE** stated that he thought it would be less complicated.

Motion: SEN. COONEY moved TO ADOPT THE FY 2000 BASE FOR ALL FUNDING EXCEPT FOR GENERAL FUND AND STATEWIDE PRESENT LAW ADJUSTMENTS AS REQUESTED FOR ALL PROGRAMS BE ADOPTED.

Discussion:

CHAIRMAN BRUEGGEMAN clarified that district court can be included in the motion as the unspecified reduction is only in the general fund. He assured the committee that they would not be making a bigger headache for themselves. **SEN. BARKUS** questioned where they are starting from. **Ms. Zanto** directed him to the non general fund numbers on the Page A-29 table and she explained that present law adjustments do not get put into the tables. She explained to REP. SINRUD that if the motion is accepted the general fund will be at the new legislative budget number on Exhibit 3. They addressed the difference with the adjusted base (on Exhibit 3), and reasons behind it. **Amy Sassano, OBPP**, provided clarification for them, and committee members verbally processed the information.

(REP. LINDEEN was not yet present)

Vote: Motion carried 6-0 by voice vote with REP. LINDEEN voting by proxy.

Present Law Adjustments

Motion: SEN. BARKUS moved that DP 1001 PAY PLAN IMPLEMENTATION BE ADOPTED.

Discussion:

REP. SINRUD brought up from previous testimony on state assumption of district court costs how some people were under and over paid so he wanted to know what affect this motion would have on pay raises. Ms. Smith replied that the assumed state employees in the judicial branch have had an increase due to statute. She explained this, and research done on the county raises. She said the requested \$7,000 is for two people out of the former court (before assumption) who are below the minimum rate as they are below where the classification pay plan put them (reference Pages A 30-31 of the Budget Analysis book).

Chief Justice Gray addressed REP. SINRUD's question explaining the before and after of state assumption (SB 176 of 2001), and the rationale for DP 1001. REP. SINRUD stated that he wanted to make sure every employee was compensated and accounted for to meet the classifications. Chief Justice Gray agreed to the intent as being in the process.

Vote: Motion carried 6-0 by voice vote with REP. LINDEEN voting by proxy.

{Tape: 2; Side: A; Approx. Time Counter: 24 - 30}

(SEN. BARKUS was out of the room)

Motion/Vote: REP. SINRUD moved that DP 1003 LEGAL ASSISTANCE FOR DOMESTIC VIOLENCE VICTIMS BE ADOPTED. Motion carried 6-0 by voice vote with REP. LINDEEN and SEN. BARKUS voting by proxy.

CHAIRMAN BRUEGGEMAN commented that with respect to the usual procedure of having unspecified reductions, they now have unspecified additions to count.

(SEN. BARKUS returned)

New Proposals

Motion/Vote: SEN. LAIBLE moved that DP 1101 GRANT MANAGER BE ADOPTED. Motion carried 6-0 by voice vote with REP. LINDEEN voting by proxy.

Motion/Vote: SEN. COONEY moved that DP 1103 COURT ASSESSMENT PROGRAM BE ADOPTED. Motion carried 6-0 by voice vote with REP. LINDEEN voting by proxy.

Motion: SEN. LAIBLE moved DP 8001 JUDICIAL BRANCH INFORMATION TECHNOLOGY.

Discussion:

SEN. BARKUS asked Ms. Smith about this, who gave an explanation of how the judiciary would implement their IT plan. SEN. BARKUS asked what is the 300,000 amount on the LFD issues (Exhibit 3). Ms. Zanto explained that it was a suggestion and she spoke to what Ms. Smith had said. Judiciary IT is contingent on the passage of HB 18 which would fund it, handouts were provided showing what happens if it does or does not pass. If the bill fails the state special revenue funding will have to decrease, if it passes the general fund money will.

EXHIBIT(jgh33a04)

EXHIBIT(jgh33a05)

{Tape: 2; Side: B; Approx. Time Counter: 1- 30}
(REP. LINDEEN is now present)

Ms. Zanto continued explaining Exhibits 4 and 5, which contains the LFD suggested language for DP 8003 and shows further information on DP 8001. REP. SINRUD asked Ms. Smith if the judiciary has an exit strategy for if HB 18 does not pass. She replied that the IT plan has support and approval by the state, and if HB 18 does not pass then there will only be approximately \$30,000 to fund the entire state judicial branch.

Ms. Smith added that there is a closely related bill carried by REP. YOUNKIN that would help fund their IT plan as well and she provided a sheet detailing it(Exhibit 6.) REP. LINDEEN and Ms. Zanto discussed how the issue with the language could be dealt with in conference committee. SEN. BARKUS and Ms. Smith went over the surcharges and covering of expenses found on Page A-33 of the Budget Analysis book. SEN. LAIBLE and REP. LINDEEN discussed

whether or not it would be more complicated to manage the issues with the bills in conference committee if they wait until then. It was determined that it might even be helpful to do so. **Ms. Smith** made comments in regard to what she is hoping to establish with REP. YOUNKINS bill. **SEN. LAIBLE** asked the committee members if they wanted to amend the motion to include the LFD language and they agreed that they did.

EXHIBIT (jgh33a06)

Motion/Vote: **SEN. LAIBLE** moved that DP 8001 BE AMENDED to include the LFD language ("The Supreme Court is requested to report on accomplishments and progress of implementing the branch information technology strategic plan to the General Government and Transportation Appropriation Subcommittee during the 2005 legislature. The report is to include an analysis of the viability for continuance of the branch IT effort and a list of accomplishments including but not limited to the goals and objectives established in the branch information technology strategic plan.) **Motion carried 6-0 by voice vote.**

Motion: **REP. LINDEEN** moved that DP 8003 COMPUTER REPLACEMENT BE ADOPTED.

Discussion:

SEN. COONEY addressed how most agencies have been moved to a five year replacement cycle and this motion is for a four year, and **REP. LINDEEN** stated her frustration with the inconsistency of the computer replacement cycles. **Amy Sassano, OBPP**, commented about the recommendations and standards set by the State Information Technology Services Division (ITSD,) and a discussion followed.

Chief Justice Gray asked the committee to please keep in mind that this is a state special revenue fund item. **Lynn Zanto** brought up the LFD issue on DP 8003 and explained its inclusion in the HB 18 dependant funding (reference Page A-34 of the Budget Analysis book.)

Substitute Motion/Vote: **SEN. LAIBLE** made a substitute motion TO APPROVE DP 8003 WITH A REDUCED AMOUNT OF \$35,500 GENERAL FUND PER YEAR REALIZING THAT THE LFD RECOMMENDED LANGUAGE ("If HB 18 is not passed and approved, item x is decreased by \$1,747,342 of state special revenue money in fiscal year 2004 and \$1,721,019 of state special revenue money in fiscal year 2005") HAS BEEN APPROVED BE ADOPTED. **Substitute motion carried 6-0 by voice vote.**

Ms. Zanto stated that there is one more piece of language that the committee may want to consider with this motion as a protection due to the circumstance of HB 18.

Motion/Vote: REP. BRUEGGEMAN moved that THE LANGUAGE BE ADOPTED. Motion carried 5-1 with REP. LINDEEN voting no.

Boards and Commissions

New Proposal

Motion/Vote: SEN. BARKUS moved that DP 2101 COURTS OF LIMITED JURISDICTION FUNDING SWITCH BE ADOPTED. Motion carried 6-0 by voice vote.

Ms. Zanto explained the LFD issue on DP 2101 to SEN. LAIBLE (reference Page A-37 of the Budget Analysis book).

Water Courts Supervision

New Proposal

Motion/Vote: REP. LINDEEN moved that DP 501 REDUCE WATER COURTS PERSONAL SERVICES BE ADOPTED. Motion carried 5-1 by voice vote with REP. SINRUD voting no.

Clerk of Court

Present Law Adjustment

Motion/Vote: SEN. COONEY moved that DP 6001 RECORDS STORAGE AND TELEPHONE EQUIPMENT BE ADOPTED. Motion carried 6-0 by voice vote.

CHAIRMAN BRUEGGEMAN made a final comment that the executive action on district court operations of the judiciary budget would be on February 18, 2003.

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. JOHN BRUEGGEMAN, Chairman

MISTY SHEA, Secretary

JB/MS

EXHIBIT (jgh33aad)